

**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE R.BASANT**

**TUESDAY, THE 13TH NOVEMBER 2007 / 22ND KARTHIKA 1929**

**Bail Appl..No. 6838 of 2007()**

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(CR.NO.241/2006 OF MANJESHWAR POLICE STATION)**

**PETITIONERS/ACCUSED:**

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- 1. NAGESH, S/O. THIMMA SAFALYA,  
AVALA SAGAR, AVALAKALLADKA, BAYAR VILLAGE,  
MANJESWAR, KASARGOD.**
  - 2. A.K.GURUVA, S/O. ANDRU,  
AVALAKKALLADKA, BAYAR VILLAGE, MANJESWAR,  
KASARGOD.**

**BY ADV. SRI.SOJAN MICHEAL**

**RESPONDENT: COMPLAINANT:**

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STATE OF KERALA, REPRESENTED BY  
THE PUBLIC PROSECUTOR, HIGH COURT OF KERALA,  
ERNAKULAM.**

**BY PUBLIC PROSECUTOR SRI. P.RAVEENDRA BABU**

**THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION  
ON 13/11/2007, THE COURT ON THE SAME DAY PASSED THE  
FOLLOWING:**

**R.BASANT, J**

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**B.A.No.6838 of 2007**  
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**Dated this the 13<sup>th</sup> day of November, 2007**

**ORDER**

Application for anticipatory bail. The petitioners face indictment in a prosecution under the provisions of the Kerala Abkari Act. They were allegedly found to be in possession of 600 X 100 ml of Karnataka arrack in packets. Investigation is now complete. Final report has already been filed. Cognizance has been taken. Committal proceedings has been registered. The petitioners were not arrested at any stage. Coercive processes have been issued by the learned Magistrate. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the petitioners are innocent. They were never absconding. They are willing to surrender before the learned Magistrate and seek regular bail. But they apprehend that their application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 438 and/or 482 Cr.P.C may be issued in favour of the petitioners.

3. It is for the petitioners to appear before the learned Magistrate and explain to the learned Magistrate the circumstances

under which they could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

4. This application for anticipatory bail is, in these circumstances, dismissed, but with the specific observation that if the petitioners appear before the learned Magistrate and apply for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

**(R.BASANT, JUDGE)**

rtr/-